

March 5, 1998

MEMORANDUM TO: Distribution

FROM: Michael J. Rubino, Associate Director
Acquisition Services Branch

SUBJECT: Policy Memorandum 98-008 – Use of Certified
Mail, Return Receipt Requested

1. Purpose. The purpose of this Policy Memorandum is to modify the Acquisition Policy Manual (APM) to require the use of the United States Postal Service (USPS) mail standard “certified mail, return receipt requested” for protests and claims received and decisions/notifications issued by FDIC under the bid protests and the claims and appeals procedures.
2. References.
 - APM 6.G.1., *Policy*, page 6-49
 - APM 8.C.4.b., *Procedures for Filing Claims*, page 8-8
 - APM 8.C.8., *Notification of Final Decision*, page 8-12
 - APM 8.D.3.g., *Notification to Contractor*, page 8-14.
 - APM 8.D.3.h., *Notification of Decision*, page 8-14.
 - APM 8.D.4.e., *Where to File*, page 8-15.
3. Scope. This Policy Memorandum is applicable to all Contracting Officers, Audit Review Specialists and other Acquisition Services Branch personnel.
4. Background. The bid protest procedures are stated in APM 6.G. and the claims and claims review/appeal procedures are stated in APM 8.C. and 8.D. respectively. As currently stated, no particular USPS mail standard is specified for a Contracting Officer’s final decision on a bid protest or on a claim. In addition, the USPS mail standard for claims review and appeal decisions is “certified mail” only. There is no standard for bid protests. This Policy Memorandum establishes “certified mail, return receipt requested” as the mail standard for bid protests submitted by unsuccessful offerors, and claims submitted by contractors. This standard shall also be used for Contracting Officer final decisions, and bid protests/claims review and appeals decisions by FDIC. This provides both parties with independent verification of delivery of the respective bid protest or claim/notification.

5. APM Change. In accordance with the foregoing, the APM is revised in the following areas:

a. APM 6.G.1. is deleted in its entirety and re-stated as follows:

“6.G.1. Policy.

6.G.1.a. **General.** It is the policy of FDIC that everyone seeking to do business with FDIC will be treated fairly and that the process for selecting and engaging contractors to provide goods or services will comply with all applicable FDIC statutes, regulations, policies, and procedures. Bid protests regarding the contract award process must be resolved in an expeditious and an equitable manner.

6.G.1.b. **Required Mail Standard.** All bid protests, Contracting Officer’s decisions, requests for review, and decisions by the Associate Director, ASB, as set forth in this section, shall be mailed by certified mail, return receipt requested through the United States Postal Service (USPS).”

b. APM 8.C.4.b. is deleted in its entirety and re-stated as follows:

"8.C.4.b. **Procedures for Filing Claims.** All contract claims filed by contractors must be in writing and must be mailed to the appropriate Contracting Officer by United States Postal Service (USPS) certified mail, return receipt requested. The claim must be related to a contractual relationship between the parties. Generally, subcontractors have no right to present a claim to FDIC, in that FDIC has no contractual privity with subcontractors. However, a contractor may file a claim for a subcontractor against FDIC.”

c. APM 8.C.8. is deleted in its entirety and re-stated as follows:

"8.C.8. **Notification of Final Decision.** The Contracting Officer shall send written notification of the decision to the contractor by USPS certified mail, return receipt requested, and if requested, discuss with the contractor the decision and answer any related questions.”

d. APM 8.D.3.g. is deleted in its entirety and re-stated as follows:

“8.D.3.g. **Notification to Contractor.** The Associate Director, ASB, will notify the contractor in writing by USPS certified mail, return receipt requested, if additional time is needed to review the contractor’s

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request for review of the Contracting Officer's decision. If the contractor requests a meeting to discuss the Contracting Officer's decision in accordance with APM 8.D.3.f.(2), and if the request for such meeting is granted, the Associate Director, ASB, will notify the contractor of the time and place of the meeting in writing by certified mail, return receipt requested."

e. APM 8.D.3.h. is deleted in its entirety and re-stated as follows:

"8.D.3.h. **Notification of Decision.** For claims less than \$100,000, decisions of the Associate Director, ASB, are final FDIC actions and are not subject to further FDIC review or consideration. Notifications of all decisions will be made by USPS certified mail, return receipt requested."

f. APM 8.D.4.e. is deleted in its entirety and re-stated as follows:

"8.D.4.e. **Where to File.** Contractors shall file a request for an appeal (original and one copy) to the FDIC Director, DOA, Washington, D.C. 20429. All requests shall be filed in writing and sent by USPS certified mail, return receipt requested."

6. Effective Date. This Policy Memorandum is effective immediately.

7. Contact. If you have any questions, please contact David K. McDermott at (202) 942-3434.

cc: Jane Sartori
John Lynn

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